



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2867



Please Note: *Effective September 1, 2003, the street address is 29 Hazen Drive*

Panos and Merope Pitsas
30 Westside Road
Harrisville, NH 03450

ADMINISTRATIVE ORDER
BY CONSENT
No. WD 04-006

A. INTRODUCTION

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, Panos and Merope Pitsas, pursuant to RSA 482-A:6. This Administrative Order by Consent is effective upon signature by all parties.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. Panos and Merope Pitsas are individuals having a mailing address of 30 Westside Road, Harrisville, NH 03450.

C. STATEMENTS OF FACTS AND LAW

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I, states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
3. RSA 482-A:14, III provides that "(f)ailure, neglect or refusal to comply with [RSA 482-A] or rules adopted under [that] chapter, or an order or condition of a permit issued under [RSA 482-A], and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by [RSA 482-A] shall be deemed violations of RSA 482-A."
4. Panos and Merope Pitsas are the owners of property located at 30 Westside Road, Harrisville, NH, on Silver Lake, more particularly identified on Town of Harrisville Tax Map 73 as Lot 8 ("the Property").
5. On April 21, 2003 DES issued Administrative Order No. WD 03-13 ("the Order") to Panos and Merope Pitsas requiring the following:
 - a. Within 30 days of the date of the Order, remove the deck and the wharf from Silver Lake.

b. Within 40 days of the date of the Order, submit photos and a letter showing removal of the deck and wharf...”

6. The deck is 16.25 feet long by 4.3 feet wide and is surrounded by a railing at such height as to preclude its use as a docking structure.

7. On May 7, 2003, DES received a letter from Mr. Pitsas seeking reconsideration for the Order.

8. On November 13, 2003, DES issued the Notice of Decision on Motion for Reconsideration, stating that “the burden is on the requestor to show cause as to why the decision should be changed. Here Mr. and Mrs. Pitsas have not demonstrated that the Order is unlawful or unreasonable, therefore, Mr. and Mrs. Pitsas’ request for relief is denied.”

9. On December 1, 2003, DES personnel, Collis Adams and Harry T. Stewart, met with Mr. Pitsas to discuss the violations as set forth in the Order and resolve any outstanding issues.

10. On January 5, 2004, DES received photographs from Mr. Pitsas which illustrates to the satisfaction of DES that the wharf is a grandfathered structure and therefore can remain in place.

D. DETERMINATION OF VIOLATIONS

1. Panos A and Merope Pitsas have violated RSA 482-A:3, I, by constructing a deck, which does not conform with the seasonal dock notification, in waters of the state without a permit from DES.

E. ORDER

Based on the above findings, DES hereby orders Panos A. and Merope Pitsas, and Panos A. and Merope Pitsas agree, to undertake and complete the following actions in accordance with the time schedules specified:

1. By June 1, 2004, remove the lakeward end of the deck that extends over Silver Lake so the the furthest extension is even and flush with the retaining wall located below it.

2. The seasonal docking structure to be installed on Silver Lake shall be consistent with the attached December 30, 2003 Pitsas diagram labelled “# 1” (“Diagram”) and conditioned as follows:

a. The “T” shaped structure shall be installed only during the “boating season” as defined by Wt 402.05;

b. The seasonal “T” shaped dock shall only accommodate one “boatslip”, as defined by Wt 101.08;

c. "Section B" as labelled on the Diagram shall be no more than 6 feet wide and 24 feet long and shall serve as the seasonal wharf;

d. "Section A" as labelled on the Diagram shall be no more than 6 feet wide and 12 feet long and shall serve as an access ramp connecting the wharf to the retaining wall;

e. No structure shall come within 20 feet of an abutter's property line or imaginary extension thereof; and

f. By June 10, 2004, Panos A. and Merope Pitsas shall submit photographs and a cover letter to DES showing compliance with Item E.1 of this Order.

3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order by Consent to DES as follows:

Mary Ann Tilton, Senior Compliance Officer
DES Water Division
29 Hazen Drive
Concord, NH 03301
Fax No.: (603) 271-6588
e-mail: mtilton@des.state.nh.us

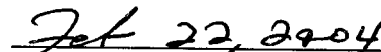
G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Panos A. and Merope Pitsas agree that this Order shall apply to and be binding upon Panos A. and Merope Pitsas, their heirs, successors, and assigns, and agree that this Order may be entered and enforced by a court of competent jurisdiction.

2. By execution of this Administrative Order by Consent, Panos A. and Merope Pitsas waive any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.


Panos A. and Merope Pitsas




Date

Feb. 22, 2004

NH Department of Environmental Services



Harry T. Stewart, P.E., Director
Water Division

March 3, 2004
Date



Michael P. Nolin, Commissioner

3/10/04
Date

cc: Mark Harbaugh, DES Legal Unit ✓
Tim Drew, DES PIP Office
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Mary Ann Tilton, WET/WD/DES
Harrisville Planning Board /
Harrisville Conservation Commission
Cheshire County Registry of Deeds
File # 2001-1643

Panos A P'tsas
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